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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,) No. CR-02-85-MAG
12 Plaintiff,) PLEA AGREEMENT
13 v.)
14 RALPH LEE McGAUGHRAN,)
15 Defendant.)
16

17 I, Ralph Lee McGaughran, and the United States Attorney's Office for the Northern
18 District of California (hereafter "the government") enter into this written plea agreement (the
19 "Agreement") pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure:

20 The Defendant's Promises

21 1. I agree to plead guilty to count 2 of the captioned indictment charging me with
22 failure to file a 1996 federal income tax return, in violation of 26 U.S.C. § 7203. I agree that the
23 elements of the offense and the maximum penalties are as follows: (1) taxpayer was required to
24 make a return; (2) taxpayer failed to make and file the required return; and (3) taxpayer's failure
25 to make and file the return was willful.

- 26 a. Maximum prison sentence 1 year
27 b. Maximum fine \$100,000
28 c. Maximum supervised release term 1 year

PLEA AGREEMENT
(NO. CR-02-85-MAG)

FILED
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CLERK
U.S. DISTRICT COURT
NO. DIST OF CA

1	d.	Mandatory special assessment	\$100
2	e.	Restitution	\$146,798, plus statutory interest from November 24, 2002 until paid

4 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
5 the following facts are true:

6 During 1996, I had gross income from my roofing business in excess of \$484,000. I knew I
7 had to file the 1996 tax return. I knew I had to file my 1996 income tax return because I
8 previously filed income tax returns and during 1992 and 1993 the IRS mailed me several notices
9 regarding earlier unfiled returns and reminding me of my obligation to file federal income tax
10 returns. I also filed an extension of time to file my 1996 income tax return, but I did not file a
11 federal income tax return for the 1996 tax year.

12 3. I agree to give up all rights that I would have if I chose to proceed to trial,
13 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
14 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
15 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
16 to pursue any affirmative defenses and present evidence.

17 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
18 the Court. I also agree to waive any right I may have to appeal my sentence.

19 5. I agree not to file any collateral attack on my conviction or sentence, including a
20 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim
21 that my constitutional right to the effective assistance of counsel was violated.

22 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
23 entered, unless the Court declines to accept the sentence agreed to by the parties. I agree that the
24 government may withdraw from this agreement if the Court does not accept the agreed upon
25 sentence set out below.

26 |||

27 |||

28 |||

1 7. I agree that the Sentencing Guidelines should be calculated as follows, and that I
2 will not ask for any other adjustments to or reductions of the offense level:

- | | | | |
|---|----|--|----------|
| 3 | a. | Offense Level, U.S.S.G. § 2T4.1: | 14 |
| 4 | b. | Amount of loss: | \$87,518 |
| 5 | c. | Acceptance of responsibility:
(If I meet the requirements of
6 U.S.S.G. § 3E1.1) | -2 |
| 7 | d. | Adjusted offense level | 12 |

8 8. I agree that an appropriate disposition of this case is as follows: that the Court may
9 impose a sentence within Sentencing Guideline level 12; 1 year of supervised release (with
10 conditions to be fixed by the Court), \$20,000 fine, \$100 special assessment and restitution to the
11 Internal Revenue Service in the amount of \$146,798 for 1994, 1995, 1996, and 1997 income
12 taxes, and statutory interest from November 24, 2002, until paid. The parties have not agreed on
13 the Criminal History category.

14 I agree that I will make a good faith effort to pay any fine, forfeiture or restitution I am
15 ordered to pay. Upon request of the Internal Revenue Service, I agree to sign a waiver of
16 restrictions on assessments and a closing agreement for 1994 income taxes in the amount of
17 \$11,545, plus statutory interest; 1995 income taxes in the amount of \$51,385, plus statutory
18 interest; 1996 income taxes of \$21,863, plus statutory interest; and 1997 income taxes of \$2,725,
19 plus statutory interest, before sentencing. Before or after sentencing, I will, upon request of the
20 Court, the government, or the U.S. Probation Office, provide accurate and complete financial
21 information, any unfiled past due federal income tax returns, submit sworn statements and give
22 depositions under oath concerning my assets and my ability to pay, surrender assets I obtained as
23 a result of my crime and release funds and property under my control in order to pay any fine,
24 forfeiture, or restitution. I agree to pay the special assessment at the time of sentencing.

25 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
26 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
27 release (if any); intentionally provide false information to the Court, the Probation Office,
28 Pretrial Services, or the government; or fail to comply with any of the other promises I have

1 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
2 Agreement, then the government will be released from all of its promises below, but I will not be
3 released from my guilty plea.

4 10. I agree that this Agreement contains all of the promises and agreements between
5 the government and me, and I will not claim otherwise in the future.

6 11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
7 District of California only, and does not bind any other federal, state, or local agency.

8 The Government's Promises

9 12. The government agrees to move to dismiss any open charges pending against the
10 defendant in the captioned indictment at the time of sentencing.

11 13. The government agrees not to file or seek any additional charges against the
12 defendant that could be filed as a result of the investigation that led to the captioned information.

13 14. The government agrees that the appropriate sentence in this case should be as set
14 forth in paragraph 8 above, unless the defendant violates the agreement as set forth in paragraph
15 9 above.


16 The Defendant's Affirmations

17 15. I confirm that I have had adequate time to discuss this case, the evidence, and this
18 Agreement with my attorney, and that he has provided me with all the legal advice that I
19 requested.

20 16. I confirm that while I considered signing this Agreement, and at the time I signed
21 it, I was not under the influence of any alcohol, drug, or medicine.

22 17. I confirm that my decision to enter a guilty plea is made knowing the charges that
23 have been brought against me, any possible defenses, and the benefits and possible detriments of
24 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
25 one coerced or threatened me to enter into this agreement.

26 Dated: 4-3-03

27 
RALPH LEE McGAUGHRAN
28 Defendant

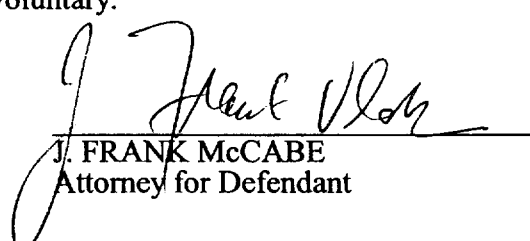
KEVIN V. RYAN
United States Attorney

Dated: 4/3/03


THOMAS MOORE
Assistant United States Attorney

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: 4/3/03


J. FRANK McCABE
Attorney for Defendant